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ATTORNEYS FOR Plaintiff TONTO SUPPLY, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

TONTO SUPPLY, INC., an Arizona
corporation,

Plaintiff,

v.

UNITED STATES OF AMERICA;
DEPARTMENT OF THE INTERIOR,
and BUREAU OF LAND
MANAGEMENT,

Defendants.

Civil Action No. CV 09-8128-PCT-JWS

**AMENDED COMPLAINT
TO QUIET TITLE**

(Assigned to the Honorable
John W. Sedwick)

Plaintiff alleges as follows:

Parties

1. Plaintiff TONTO SUPPLY, INC. ("TONTO") is an Arizona corporation which has its principal place of business in and does business in Mohave County, Arizona.

2. Defendant UNITED STATES OF AMERICA is the federal government and is the record owner of the mineral estate relevant to this action as further described below.

3. Defendant UNITED STATES DEPARTMENT OF THE INTERIOR is the department of the federal government to which Congress delegated specific authority to administer the public lands under federal law, and hence the above referenced mineral estate.

1 the United States of America. First American's condition of title report is attached
2 hereto and incorporated as **Tab 3**.

3 11. The recorded documents referenced in First American's condition of title
4 report are attached hereto as **Tabs 4 through 8**.

5 12. Notwithstanding the recorded documents referenced herein, upon
6 information and belief, BLM's records reflect that United States of America does not
7 own the Property or the mineral estate thereunder, but only the surface estate which
8 lies above the Property.

9 13. To the extent the Quitclaim Deed is valid, Plaintiff holds an interest in and
10 to the Property as a tenant by partnership, a partner, or joint venturer with R&G
11 Gravel.

12 14. Plaintiff is entitled to this Court's declaration regarding the title or estate
13 owned by the Defendants, if any, in and to the Property.

14 15. Plaintiff is entitled to this Court's Order extinguishing, releasing, remising
15 and otherwise quieting any claim of the Defendants in and to the Property.

16 16. Alternatively, if this Court determines that the Defendants do have some
17 right, title, or interest in or to the Property, Plaintiff requests further relief from this
18 Court to exercise its exclusive jurisdiction over all parties who may claim any adverse
19 interest in or to the Property.

20 **Claim for Relief**
21 **(Quiet Title)**

22 17. Plaintiff realleges and incorporates herein by reference each and every
23 allegation of the Complaint as if herein set forth in full.

24 18. Plaintiff requests that this Court recognize the validity of the Quitclaim
25 Deed attached hereto, recognizing the Plaintiff's interest in and to the Property as a
26 tenant by partnership, a partner, or joint venturer with R&G Gravel.

1 19. Alternatively, Plaintiff requests that this Court recognize Defendants as
2 the sole record title holders of the Property.

3 20. Plaintiff requests that the Court recognize and declare that the Property is
4 owned by the general partnership or joint venture formed between Plaintiff and R&G
5 Gravel and quiet title to Plaintiff as to an undivided interest in and to Property and that
6 the nature of Plaintiff's ownership is tenancy by partnership.

7 21. Alternatively, Plaintiff requests that this Court recognize one or more of
8 the Defendants as the sole record title holders of the Property.

9 WHEREFORE, Plaintiff TONTO SUPPLY, INC. prays for judgment against
10 Defendants UNITED STATES OF AMERICA; DEPARTMENT OF THE INTERIOR,
11 BUREAU OF LAND MANAGEMENT and DOES I through X as follows:

12 1. For this Court's Order quieting title in the Property as identified above;

13 2. For Plaintiff's reasonable attorneys' fees and costs incurred and accruing
14 herein, in a specific amount to be determined at trial;

15 3. For costs incurred herein; and

16 4. For such other and further relief that the Court may deem appropriate.

17 DATED this 24th day of September, 2009.

18 VAKULA KOTTKE, PLC

19
20 By s/ Alex B. Vakula

21 Alex B. Vakula

22 212 East Gurley Street

23 Prescott, Arizona 86301

24 Attorneys for Plaintiff TONTO SUPPLY, INC.
25
26

Certificate of Service

I hereby certify that on this 24th day of September, 2009, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Dennis K. Burke, Esq.
United States Attorney
Sue A. Klein, Esq.
Assistant United States Attorney
District of Arizona
Two Renaissance Square
40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408
Attorneys for Defendants UNITED STATES OF AMERICA,
DEPARTMENT OF THE INTERIOR, and
BUREAU OF LAND MANAGEMENT

I further certify that on this 24th day of September, 2009, I served a courtesy copy of the attached document via First Class Mail on the following:

Honorable John W. Sedwick
United States District Court
District of Arizona
Federal Building and U.S. Courthouse
222 West 7th Avenue, Box 32
Anchorage, Alaska 99513-9513

By s/ Anne Jack